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Attorney for Defendants

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

THE CHIPPEWA CREE TRIBE OF
THE ROCKY BOY'S RESERVATION
OF MONTANA, PLAIN GREEN, LLC,
and FIRST AMERICAN CAPITAL
RESOURCES, LLC,

Plaintiffs,

v.

ZACHARY ROBERTS, RICHARD
LEE BROOME, GORDON JONES, and
MARTIN MAZZARA, in their
individual capacities, and DESTEL LLC,
FRESH START MARKETING, LLC,
and ENCORE SERVICES, LLC,

Defendants.

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CV-14-63-BMM

**STATEMENT OF STIPULATED
FACTS**

STATEMENT OF STIPULATED FACTS

Plaintiffs, the Chippewa Cree Tribe of the Rocky Boy's Reservation of Montana, Plain Green, LLC, and First American Capital Resources, LLC, and Defendants, Zachary Roberts, Richard Lee Broome, Gordon Jones, and Martin Mazzara, in their individual capacities, and DesTel, LLC, Fresh Start Marketing, LLC, and Encore Services, LLC ("Encore") (collectively "Defendants"), by and through their undersigned counsel, stipulate and agree the following facts are true and accurate:¹

The Parties

1. Plaintiff, the Chippewa Cree Tribe of the Rocky Boy's Reservation of Montana (the "Tribe"), is a duly incorporated and federally recognized Indian tribe with its Reservation located in Montana, and with its headquarters in Box Elder, Montana.

2. Plain Green, LLC is a limited liability company wholly-owned by the Tribe, with its headquarters and its principal place of business located in Box Elder, Montana.

3. First American Capital Resources, LLC ("FACR") is a limited liability company wholly-owned by the Tribe, with its headquarters and its principal place of business located in Box Elder, Montana.

¹ The parties agree that these facts may be supplemented at the conclusion of discovery.

4. Defendant Zachary Roberts (“Roberts”) is an adult individual who resides at 1449 Foothills Village Drive, Henderson, NV 89012. Roberts is a citizen of Nevada and traveled to Box Elder, Montana to conduct business with the Tribe and its lending enterprises.

5. Defendant Richard Lee Broome (“Broome”) is an adult individual who resides at 261 Francisco Street, Half Moon Bay, CA 94019. Broome is a citizen of California and traveled to Box Elder, Montana to conduct business with the Tribe and its lending enterprises.

6. Defendant Gordon Jones (“Jones”) is an adult individual who resides at 2734 Woodflower Avenue, Henderson, Nevada 89052. Jones is a citizen of Nevada and traveled to Box Elder, Montana to conduct business with the Tribe and its lending enterprises.

7. Defendant Martin Mazzara (“Mazzara”) is an adult individual who resides at 609 China Doll Place, Henderson, NV 89012. Mazzara is a citizen of Nevada and traveled to Box Elder, Montana between in order to conduct business with the Tribe and its lending enterprises.

8. Defendant Encore Services, LLC (“Encore”) is a Nevada limited liability company with its headquarters and principal place of business at 1291 Galleria Drive, Henderson, Nevada 89014. Encore sent agents to Box Elder, Montana to conduct business with the Tribe and its lending enterprises.

9. Encore Services, LLC was created on May 26, 2011.

10. DesTel, LLC (“DesTel”) is a Nevada limited liability company with its headquarters and principal place of business located at 1291 Galleria Drive, Suite 100, Henderson, Nevada 89014. DesTel sent employees and agents to Box Elder, Montana to conduct business with the Tribe and its lending enterprises.

11. Broome is the manager of DesTel.

12. Jones is an employee of DesTel.

13. Fresh Start Marketing is a Nevada limited liability company with its headquarters and principal place of business at 1291 Galleria Drive, Suite 230, Henderson, Nevada. Fresh Start Marketing sent agents to Box Elder, Montana to conduct business with the Tribe and its lending enterprises.

Background

14. The Tribe owns and operates commercial enterprises for the benefit of its people. These enterprises include Plain Green and FACR (collectively, “the lending enterprises”).

15. Plain Green was an entity established to offer installment loans for customers.

16. Plain Green was effectively created in March 2011. It was the renamed Tribal entity, First American Asset Recovery, which had been created in May 2010.

17. Plain Green has a board of directors.

18. Neal Rosette Sr. was involved in the operations of Plain Green and FACR and was the Chief Executive Officer (“CEO”) of both of the lending enterprises.

19. Billi Anne Morsette was involved in the operations of Plain Green and FACR. She was the Chief Operating Officer of both entities and later CEO.

The Management Agreement, Amended Management Agreement, and Operations of FACR

20. The Tribe and Encore Service Corporation (“ESC”) entered into an agreement (the “Management Agreement”) dated October 22, 2010 under which ESC was to perform services for FACR.

21. Under the Management Agreement, Encore Service Corporation was to receive 40% of “Net Revenues,” a defined term in the Agreement.

22. The Management Agreement was subsequently amended, which amendment provided that Encore Services Corporation would receive 49% of “Net Revenues,” a defined term in the agreement.

23. Under both versions of the Management Agreement, the Tribe was entitled to certain money from FACR.

24. ESC and Encore Acceptance I, filed for bankruptcy in the District of Nevada on May 27, 2014.

25. The Management Agreement and Amended Management Agreement imposed various responsibilities on ESC as set forth in those agreements.

26. The Management Agreement and Amended Management Agreement imposed certain restrictions on ESC as set forth in the agreements.

27. Darrin Miller was an investor in the FACR portfolio.

The Fee Agreement and Joint Venture Agreement

28. Zachary Roberts signed a “Fee Agreement” on behalf of Encore Services, LLC which provided that Encore Services would receive 15% of Plain Green’s Gross Revenues, a defined term in the Fee Agreement, in perpetuity for as long as the Tribe or its lending entities received revenues from lending activities.

DATED this 26th day of January, 2015

By /s/ Charles H. Carpenter

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Attorney for Defendants

CERTIFICATE OF SERVICE

I, Charles H. Carpenter, hereby certify that on January 26, 2015, I electronically filed the foregoing STATEMENT OF STIPULATED FACTS which will send notification of such filing to all relevant parties.

Respectfully submitted,

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